



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4974

Introduced 1/21/2010, by Rep. Donald L. Moffitt

SYNOPSIS AS INTRODUCED:

225 ILCS 135/10
225 ILCS 135/20
225 ILCS 135/90
225 ILCS 135/95

Amends the Genetic Counselor Licensing Act. Provides that "genetic counseling" can include genetic testing. Provides that "referral" may mean a written or telecommunicated authorization for genetic counseling services from a physician assistant who has a supervision agreement with a supervising physician that authorizes referrals to a genetic counselor (now, "who has been delegated authority to make referrals to genetic counselors"). Provides that genetic testing shall be ordered by a physician licensed to practice medicine in all its branches or a genetic counselor (now, only a physician licensed to practice medicine in all its branches). Provides that the physician, advanced practice nurse, or physician assistant shall maintain supervision of the patient and be provided timely written reports on the services, including genetic testing results, provided by the licensed genetic counselor. In a provision concerning privileged communications and information, adds the exception for a disclosure made by the genetic counselor to the referring physician licensed to practice medicine in all its branches, advanced practice nurse, or physician assistant. In a provision concerning grounds for discipline, adds the failure to provide genetic testing results and any requested information to a referring physician licensed to practice medicine in all its branches, advanced practice nurse, or physician assistant as a ground for discipline. Makes other changes. Effective immediately.

LRB096 16411 ASK 31678 b

1 AN ACT concerning professional regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Genetic Counselor Licensing Act is amended
5 by changing Sections 10, 20, 90, and 95 as follows:

6 (225 ILCS 135/10)

7 (Section scheduled to be repealed on January 1, 2015)

8 Sec. 10. Definitions. As used in this Act:

9 "ABGC" means the American Board of Genetic Counseling.

10 "ABMG" means the American Board of Medical Genetics.

11 "Active candidate status" is awarded to applicants who have
12 received approval from the ABGC or ABMG to sit for their
13 respective certification examinations.

14 "Department" means the Department of Professional
15 Regulation.

16 "Director" means the Director of Professional Regulation.

17 "Genetic anomaly" means a variation in an individual's DNA
18 that has been shown to confer a genetically influenced disease
19 or predisposition to a genetically influenced disease or makes
20 a person a carrier of such variation. A "carrier" of a genetic
21 anomaly means a person who may or may not have a predisposition
22 or risk of incurring a genetically influenced condition and who
23 is at risk of having offspring with a genetically influenced

1 condition.

2 "Genetic counseling" means the provision of services,
3 which can include genetic testing, pursuant to a referral, to
4 individuals, couples, groups, families, and organizations by
5 one or more appropriately trained individuals to address the
6 physical and psychological issues associated with the
7 occurrence or risk of occurrence or recurrence of a genetic
8 disorder, birth defect, disease, or potentially inherited or
9 genetically influenced condition in an individual or a family.

10 "Genetic counseling" consists of the following:

11 (A) Estimating the likelihood of occurrence or
12 recurrence of a birth defect or of any potentially
13 inherited or genetically influenced condition. This
14 assessment may involve:

15 (i) obtaining and analyzing a complete health
16 history of the person and his or her family;

17 (ii) reviewing pertinent medical records;

18 (iii) evaluating the risks from exposure to
19 possible mutagens or teratogens;

20 (iv) recommending genetic testing or other
21 evaluations to diagnose a condition or determine the
22 carrier status of one or more family members;

23 (B) Helping the individual, family, health care
24 provider, or health care professional (i) appreciate the
25 medical, psychological and social implications of a
26 disorder, including its features, variability, usual

1 course and management options, (ii) learn how genetic
2 factors contribute to the disorder and affect the chance
3 for recurrence of the condition in other family members,
4 and (iii) understand available options for coping with,
5 preventing, or reducing the chance of occurrence or
6 recurrence of a condition.

7 (C) Facilitating an individual's or family's (i)
8 exploration of the perception of risk and burden associated
9 with the disorder and (ii) adjustment and adaptation to the
10 condition or their genetic risk by addressing needs for
11 psychological, social, and medical support.

12 "Genetic counselor" means a person licensed under this Act
13 to engage in the practice of genetic counseling.

14 "Person" means an individual, association, partnership, or
15 corporation.

16 "Qualified supervisor" means any person who is a licensed
17 genetic counselor, as defined by rule, or a physician licensed
18 to practice medicine in all its branches. A qualified
19 supervisor may be provided at the applicant's place of work, or
20 may be contracted by the applicant to provide supervision. The
21 qualified supervisor shall file written documentation with the
22 Department of employment, discharge, or supervisory control of
23 a genetic counselor at the time of employment, discharge, or
24 assumption of supervision of a genetic counselor.

25 "Referral" means a written or telecommunicated
26 authorization for genetic counseling services from a physician

1 licensed to practice medicine in all its branches, an advanced
2 practice nurse who has a collaborative agreement with a
3 collaborating physician that authorizes referrals to a genetic
4 counselor, or a physician assistant who has a supervision
5 agreement with a supervising physician that authorizes
6 referrals to a genetic counselor ~~who has been delegated~~
7 ~~authority to make referrals to genetic counselors.~~

8 "Supervision" means review of aspects of genetic
9 counseling and case management in a bimonthly meeting with the
10 person under supervision.

11 (Source: P.A. 93-1041, eff. 9-29-04; 94-661, eff. 1-1-06.)

12 (225 ILCS 135/20)

13 (Section scheduled to be repealed on January 1, 2015)

14 Sec. 20. Restrictions and limitations.

15 (a) Beginning 12 months after the adoption of the final
16 administrative rules, except as provided in Section 15, no
17 person shall, without a valid license as a genetic counselor
18 issued by the Department (i) in any manner hold himself or
19 herself out to the public as a genetic counselor under this
20 Act; (ii) use in connection with his or her name or place of
21 business the title "genetic counselor", "licensed genetic
22 counselor", "gene counselor", "genetic consultant", or
23 "genetic associate" or any words, letters, abbreviations, or
24 insignia indicating or implying a person has met the
25 qualifications for or has the license issued under this Act; or

1 (iii) offer to render or render to individuals, corporations,
2 or the public genetic counseling services if the words "genetic
3 counselor" or "licensed genetic counselor" are used to describe
4 the person offering to render or rendering them, or "genetic
5 counseling" is used to describe the services rendered or
6 offered to be rendered.

7 (b) Beginning 12 months after the adoption of the final
8 administrative rules, no licensed genetic counselor may
9 provide genetic counseling to individuals, couples, groups, or
10 families without a referral from a physician licensed to
11 practice medicine in all its branches, an advanced practice
12 nurse who has a collaborative agreement with a collaborating
13 physician that authorizes referrals to a genetic counselor, or
14 a physician assistant who has been delegated authority to make
15 referrals to genetic counselors. The physician, advanced
16 practice nurse, or physician assistant shall maintain
17 supervision of the patient and be provided timely written
18 reports on the services, including genetic testing results,
19 provided by the licensed genetic counselor. Genetic testing
20 shall be ordered by a physician licensed to practice medicine
21 in all its branches or a genetic counselor. Genetic test
22 results and reports shall be provided to the referring
23 physician, advanced practice nurse, or physician assistant.
24 General seminars or talks to groups or organizations on genetic
25 counseling that do not include individual, couple, or family
26 specific counseling may be conducted without a referral. In

1 clinical settings, genetic counselors who serve as a liaison
2 between family members of a patient and a genetic research
3 project, may, with the consent of the patient, provide
4 information to family members for the purpose of gathering
5 additional information, as it relates to the patient, without a
6 referral. In non-clinical settings where no patient is being
7 treated, genetic counselors who serve as a liaison between a
8 genetic research project and participants in that genetic
9 research project may provide information to the participants,
10 without a referral.

11 (c) Beginning 12 months after the adoption of the final
12 administrative rules, no association or partnership shall
13 practice genetic counseling unless every member, partner, and
14 employee of the association or partnership who practices
15 genetic counseling or who renders genetic counseling services
16 holds a valid license issued under this Act. No license shall
17 be issued to a corporation, the stated purpose of which
18 includes or which practices or which holds itself out as
19 available to practice genetic counseling, unless it is
20 organized under the Professional Service Corporation Act.

21 (d) Nothing in this Act shall be construed as permitting
22 persons licensed as genetic counselors to engage in any manner
23 in the practice of medicine in all its branches as defined by
24 law in this State.

25 (e) Nothing in this Act shall be construed to authorize a
26 licensed genetic counselor to diagnose, test, or treat any

1 genetic or other disease or condition.

2 (f) When, in the course of providing genetic counseling
3 services to any person, a genetic counselor licensed under this
4 Act finds any indication of a disease or condition that in his
5 or her professional judgment requires professional service
6 outside the scope of practice as defined in this Act, he or she
7 shall refer that person to a physician licensed to practice
8 medicine in all of its branches.

9 (Source: P.A. 93-1041, eff. 9-29-04; 94-661, eff. 1-1-06.)

10 (225 ILCS 135/90)

11 (Section scheduled to be repealed on January 1, 2015)

12 Sec. 90. Privileged communications and exceptions.

13 (a) With the exception of disclosure to the referring
14 physician licensed to practice medicine in all its branches,
15 advanced practice nurse, or physician assistant, no ~~no~~ licensed
16 genetic counselor shall disclose any information acquired from
17 persons consulting the counselor in a professional capacity,
18 except that which may be voluntarily disclosed under any of the
19 following circumstances:

20 (1) In the course of formally reporting, conferring, or
21 consulting with administrative superiors, colleagues, or
22 consultants who share professional responsibility, in
23 which instance all recipients of the information are
24 similarly bound to regard the communication as privileged.

25 (2) With the written consent of the person who provided

1 the information and about whom the information concerns.

2 (3) In the case of death or disability, with the
3 written consent of a personal representative.

4 (4) When a communication reveals the intended
5 commission of a crime or harmful act and such disclosure is
6 judged necessary in the professional judgment of the
7 licensed genetic counselor to protect any person from a
8 clear risk of serious mental or physical harm or injury or
9 to forestall a serious threat to the public safety.

10 (5) When the person waives the privilege by bringing
11 any public charges or filing a lawsuit against the
12 licensee.

13 (b) Any person having access to records or anyone who
14 participates in providing genetic counseling services, or in
15 providing any human services, or is supervised by a licensed
16 genetic counselor is similarly bound to regard all information
17 and communications as privileged in accord with this Section.

18 (c) The Mental Health and Developmental Disabilities
19 Confidentiality Act is incorporated herein as if all of its
20 provisions were included in this Act. In the event of a
21 conflict between the application of this Section and the Mental
22 Health and Developmental Disabilities Confidentiality Act to a
23 specific situation, the provisions of the Mental Health and
24 Developmental Disabilities Confidentiality Act shall control.

25 (Source: P.A. 93-1041, eff. 9-29-04.)

1 (225 ILCS 135/95)

2 (Section scheduled to be repealed on January 1, 2015)

3 Sec. 95. Grounds for discipline.

4 (a) The Department may refuse to issue, renew, or may
5 revoke, suspend, place on probation, reprimand, or take other
6 disciplinary action as the Department deems appropriate,
7 including the issuance of fines not to exceed \$1,000 for each
8 violation, with regard to any license for any one or more of
9 the following:

10 (1) Material misstatement in furnishing information to
11 the Department or to any other State agency.

12 (2) Violations or negligent or intentional disregard
13 of this Act, or any of its rules.

14 (3) Conviction of any crime under the laws of the
15 United States or any state or territory thereof that is a
16 felony, a misdemeanor, an essential element of which is
17 dishonesty, or a crime that is directly related to the
18 practice of the profession.

19 (4) Making any misrepresentation for the purpose of
20 obtaining a license, or violating any provision of this Act
21 or its rules.

22 (5) Gross ~~Professional incompetence or gross~~
23 negligence in the rendering of genetic counseling
24 services.

25 (6) Failure to provide genetic testing results and any
26 requested information to a referring physician licensed to

1 practice medicine in all its branches, advanced practice
2 nurse, or physician assistant ~~Gross or repeated~~
3 ~~negligence.~~

4 (7) Aiding or assisting another person in violating any
5 provision of this Act or any rules.

6 (8) Failing to provide information within 60 days in
7 response to a written request made by the Department.

8 (9) Engaging in dishonorable, unethical, or
9 unprofessional conduct of a character likely to deceive,
10 defraud, or harm the public and violating the rules of
11 professional conduct adopted by the Department.

12 (10) Failing to maintain the confidentiality of any
13 information received from a client, unless otherwise
14 authorized or required by law.

15 (10.5) Failure to maintain client records of services
16 provided and provide copies to clients upon request.

17 (11) Exploiting a client for personal advantage,
18 profit, or interest.

19 (12) Habitual or excessive use or addiction to alcohol,
20 narcotics, stimulants, or any other chemical agent or drug
21 which results in inability to practice with reasonable
22 skill, judgment, or safety.

23 (13) Discipline by another jurisdiction, if at least
24 one of the grounds for the discipline is the same or
25 substantially equivalent to those set forth in this
26 Section.

1 (14) Directly or indirectly giving to or receiving from
2 any person, firm, corporation, partnership, or association
3 any fee, commission, rebate, or other form of compensation
4 for any professional service not actually rendered.

5 (15) A finding by the Department that the licensee,
6 after having the license placed on probationary status has
7 violated the terms of probation.

8 (16) Failing to refer a client to other health care
9 professionals when the licensee is unable or unwilling to
10 adequately support or serve the client.

11 (17) Willfully filing false reports relating to a
12 licensee's practice, including but not limited to false
13 records filed with federal or State agencies or
14 departments.

15 (18) Willfully failing to report an instance of
16 suspected child abuse or neglect as required by the Abused
17 and Neglected Child Reporting Act.

18 (19) Being named as a perpetrator in an indicated
19 report by the Department of Children and Family Services
20 pursuant to the Abused and Neglected Child Reporting Act,
21 and upon proof by clear and convincing evidence that the
22 licensee has caused a child to be an abused child or
23 neglected child as defined in the Abused and Neglected
24 Child Reporting Act.

25 (20) Physical or mental disability, including
26 deterioration through the aging process or loss of

1 abilities and skills which results in the inability to
2 practice the profession with reasonable judgment, skill,
3 or safety.

4 (21) Solicitation of professional services by using
5 false or misleading advertising.

6 (22) Failure to file a return, or to pay the tax,
7 penalty of interest shown in a filed return, or to pay any
8 final assessment of tax, penalty or interest, as required
9 by any tax Act administered by the Illinois Department of
10 Revenue or any successor agency or the Internal Revenue
11 Service or any successor agency.

12 (23) A finding that licensure has been applied for or
13 obtained by fraudulent means.

14 (24) Practicing or attempting to practice under a name
15 other than the full name as shown on the license or any
16 other legally authorized name.

17 (25) Gross overcharging for professional services,
18 including filing statements for collection of fees or
19 monies for which services are not rendered.

20 (26) Providing genetic counseling services to
21 individuals, couples, groups, or families without a
22 referral from either a physician licensed to practice
23 medicine in all its branches, an advanced practice nurse
24 who has a collaborative agreement with a collaborating
25 physician that authorizes the advanced practice nurse to
26 make referrals to a genetic counselor, or a physician

1 assistant who has been delegated authority to make
2 referrals to genetic counselors.

3 (b) The Department shall deny, without hearing, any
4 application or renewal for a license under this Act to any
5 person who has defaulted on an educational loan guaranteed by
6 the Illinois State Assistance Commission; however, the
7 Department may issue a license or renewal if the person in
8 default has established a satisfactory repayment record as
9 determined by the Illinois Student Assistance Commission.

10 (c) The determination by a court that a licensee is subject
11 to involuntary admission or judicial admission as provided in
12 the Mental Health and Developmental Disabilities Code will
13 result in an automatic suspension of his or her license. The
14 suspension will end upon a finding by a court that the licensee
15 is no longer subject to involuntary admission or judicial
16 admission, the issuance of an order so finding and discharging
17 the patient, and the determination of the Director that the
18 licensee be allowed to resume professional practice.

19 (Source: P.A. 93-1041, eff. 9-29-04; 94-661, eff. 1-1-06.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.